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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,038

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Philip Edward Robinson

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EXAMINER

WEINSTEIN, LEONARD J

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

04/06/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/599,038	Applicant(s) ROBINSON, PHILIP EDWARD	
	Examiner LEONARD J. WEINSTEIN	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/28/2009; 01/20/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment of January 20, 2010. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.
2. The examiner acknowledges the amendments to claims 1 and 3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alioto US 5,137,430 ("Alioto '430"), in view of Ostrowiecki US 2003/0156950 ("Ostrowiecki"), further in view of Yang US 6,017,201 ("Yang").

- a. With respect to **claim 1:**

- i. Alioto '430 teaches all the limitations as claimed for a manually operated pump 10 including two cylindrical members (18, 52), comprising a first cylindrical member 18 and a second cylindrical member 52, slidable in relation to each other such that one cylindrical member 52 is within the other 18 cylindrical member, wherein one end of the first cylindrical member is provided with a fitting 15

to receive a saddle 16, wherein said second cylindrical member is provide with a foot stand assembly (70, 78).

(1) **Foldable Foot Stand**

(a) Alioto does not teach the limitations that are taught by Alioto '894 for manually operated pump that is design to be stowed in a bike frame below a seat including a foot stand 75t that is foldable wherein the foot stand can be unfolded for use and can be folded away when no longer required. Ostrowiecki at ¶ [148].

(b) Ostrowiecki teaches that the foot-stand of 75e and 75t that is integral with an outlet were a tube is attached to pump air which is light and inexpensive to produce. Id. at ¶ [154]. Further the stand of Ostrowiecki is very light and does not require pump incorporate a cumbersome sub-assembly in order to use the foot stand. Id. The foot stand can also be used to secure a pump to the outside of a bike. Id. at ¶ [155]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a pump, as taught by Alioto, with a foldable foot-stand, as taught Ostrowiecki, to provide the flexibility of being able to us the stand as means for securing a pump to the outside of a bike frame and avoid having to use a costly sub-assembly to provide a stand.

(2) **Retractable Air Hose**

(a) A combination of Alioto '430 and Ostrowieki, teaches the limitations as discussed but fails to teach the limitations that are taught by Yang for a hand operated pump including a retractable hose 14 wherein the air hose is retractable into a storage position within a pump. Yang at sheet 5 of 6, figure 5 ("fig. 5"). Yang teaches a pump with a handle that is similar to the seat handle of Alioto'430. Providing the tube 36 of Alioto '430 with the end fitting 140 of Yang and modifying the seat handle of Alioto '430 to have a shaft that fits within the tube 26 similar to element 124 of Yang (or the tube 36 could be made larger) and replacing the backing plate 32 of Alioto '430 with a cone shaped recess 122 and channel 124 (which could accommodate a diaphragm if required) as taught by Yang would teach the invention as claimed. One aspect of Alioto '430 that is common to the prior art discussed by Yang is having a tube, at least the end of which is not conveniently and compactly stored with a pump. Yang at col. 1 ll. 26-34. In the prior art discussed by Yang a user had to use a rubber band to attach a tube when the pump was not in use. In Alioto '430 even though move of the tube 36 is stored within the pump the is still a section

that is free to dangle from the pump body and including the nozzle portion of the tube. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a bike pump, as taught by Alioto '430, with a foldable foot stand, as taught by Ostrowiecki, further modified to have a retractable hose, as taught by Yang, in order to avoid have a portion of the hose always exposed as well as dangling from a section of the pump. Yang at col. 1 ll. 24 - 59).

b. With respect to **claims 2, 3, and 6:**

i. Alioto '430 teaches all the limitations including: **[claim 2]** wherein the pump 10 is provided with a manually graspable member 16 for operating the pump; **[claim 3]** wherein the manually graspable member is the saddle; **[claim 6]** and cycle (not shown) comprising a tubular section 12 receiving a seat post 18, the post 22 being in the from of a pump according to claim 1. Alioto '430 at col. 2 ll. 25-50.

c. With respect to **claim 4:**

i. The combination teaches the limitations as claimed including with reference to Ostrowiecki two cylindrical members 70 and 72 latched together, via element 71 and 74.

ii. Since the pump is in a bike there is the chance then when a user rides the bike frame of the bike is subject to a large amount of vibration depending on the terrain over which the rider is biking. In situations like this it would be

possible for tube 20 in Alioto '430 to lose friction with the cylinder 18 and be cause to slide down in a seat post. This would expose a longer length of the tube 52 to the risk of damage or possible pick up deposits of any debris that was in the bike post. This would not be advantageous to the operating life the pump.

iii. It would have been obvious to provide the latching mechanism Ostrowiecki to the cylinders of Alioto '430 in order to minimize the risk of damage to pump components when a rider bikes over rough terrain.

Allowable Subject Matter

6. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD J. WEINSTEIN whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
Supervisory Patent Examiner, Art
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/Leonard J Weinstein/
Examiner, Art Unit 3746